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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,432	12/12/2003	Eric Thwaites	10281.400-US	3883
25907	7590	07/03/2006	[REDACTED]	[REDACTED] EXAMINER SRIVASTAVA, KAILASH C
			[REDACTED]	[REDACTED] ART UNIT 1655 PAPER NUMBER

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/734,432	THWAITES, ERIC	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dr. Kailash C. Srivastava	1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 December 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) \_\_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) 1-17 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. The assigned Art Unit location of your application in the United States Patent and Trademark Office (i.e., USPTO) is 1655. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1655.
  
- 2 The assigned Examiner to your application in the USPTO is Dr. Kailash C. Srivastava. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Examiner Kailash C. Srivastava in Art Unit 1655.

## Claims Status

3. Claims 1-17 are pending.

## *Election /Restriction*

4. Restriction to one of the following inventions is required under 35 U.S.C. §121:
  - Group I, consisting of claims 1-8 and 12-15 drawn to a method to flocculate a microorganism or remove a high molecular weight contaminants from a fermentation broth, classified under Class 423, Subclass 101 for example.
  - Group II, consisting of claims 9-11 drawn to another method to flocculate a microorganism, classified under Class 435, Subclass 261 for example.
  - Group III, consisting of claims 16-17 drawn to a method comprising two or more flocculating agents, classified under Class 210, subclass 600 for example.

## *Inventions are Independent Or Distinct*

5. The inventions are distinct, each from the other because of the following reasons:

Inventions in Groups I-III are unrelated to each other because they are directed to different inventions that are not connected in design, operation and/or effect. These inventions are independent since they are not disclosed as capable of use together. They have different modes of operation, they have different functions, and/or they have different effects. One would not have to practice the various methods at the same time to practice just one method alone (MPEP § 806.04, MPEP § 808.01). In the instant case, for example invention recited in claims encompassed in Group II are directed to a method to

flocculate microorganisms in a culture broth, wherein the broth is diluted prior to addition of a divalent salt, whereas invention in Group III requires more than one flocculating agent without requiring to dilute the culture broth, and the method of Group I doe not require either the dilution of the fermentation broth or addition of more than one flocculating agent. Thus, components and/pr steps are different in each of the three methods. Therefore, method inventions I- III may not be practiced together.

The inventions discussed above are independent and distinct, each from the other. They have acquired a separate status in the art as a separate subject for inventive effect and require independent searches. The search for each one of the above inventions is not coextensive particularly with regard to the literature search. For example the search strategy in group I requires a key word for a flocculating agent together with a microorganism and a high molecular weight compound, whereas the search strategy for Group II method does not requires a dilution steep prior to the addition of a divalent salt and the search strategy for Group III invention additionally requires more than one flocculating agent as a key word. Thus, search strategy for each of the three inventions is different. Further, a reference that would anticipate the invention of one group would not necessarily anticipate or even make obvious another group. Finally, the consideration for patentability is different in each case. Thus, it would be an undue burden to examine all of the above inventions in one application.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and their recognized diverse subject matter, they would illicit an undue burden on the examiner to search and examine all the inventions in groups I- IV in one single application. Furthermore, the criteria for patentability may not be same for each of the recited groups and what may be applicable for one group, may not at all be applicable to other group. Thus, restriction for examination purposes as indicated is proper.

6. Applicants are advised that a reply to this requirement must include an identification of an invention elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicants will be entitled to consideration of additional claims which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR §1.141. Currently, Claims 1, 8 and 14 are generic claims. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the

inventorship must be amended in compliance with 37 CFR §1.48(b). Any amendment of inventorship must be accompanied by a petition under 37 CFR §1.48(b) and by the fee required under 37 CFR §1.17(I).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kailash C. Srivastava whose telephone number is (571) 272-0923. The examiner can normally be reached on Monday to Thursday from 7:30 A.M. to 6:00 P.M. (Eastern Standard or Daylight Savings Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Terry McKelvey, can be reached on (571)-272-0775 Monday through Friday 8:30 A.M. to 5:00 P.M. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (i.e., PAIR) system. Status information for the published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (i.e., EBC) at: (866)-217-9197 (toll-free). Alternatively, status inquiries should be directed to the receptionist whose telephone number is (703) 308-0196.

Kailash C. Srivastava, Ph.D.  
Patent Examiner  
Art Unit 1655  
(571) 272-0923

June 26, 2006



CHRISTOPHER R. TATE  
PRIMARY EXAMINER